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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,749	07/31/2003	Satoshi Sakamaki	019519-396	9931

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EXAMINER

TON, MINH TOAN T

ART UNIT PAPER NUMBER

2871

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/630,749

Applicant(s)

SAKAMAKI ET AL.

Examiner

Toan Ton

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9,11,13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) 9,11,13 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Remarks (product-by-process)***

1. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

The product-by-process limitations recited in claim 16 have not been given patentable weight.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al (US 2004/0052937).

Ito discloses a polarizer comprising polyvinyl alcohol film stretched at an oblique angle, the stretching/longitudinal direction of the film is inclined 10°-80° (overlapping Applicant's claimed range of 20°-70°) to a transmission axis direction. It has been held that overlapping ranges are at least obvious. Further, Ito discloses the polarizer yielding advantages such as

Art Unit: 2871

improving yield rate, high performance. Therefore, it would have been at least obvious to one of ordinary skill in the art to employ a polarizer comprising polyvinyl alcohol film stretched at an oblique angle, the stretching/longitudinal direction of the film is inclined  $10^{\circ}$ - $80^{\circ}$  (overlapping Applicant's claimed range of  $20^{\circ}$ - $70^{\circ}$ ) to a transmission axis direction, as has been held obvious and for advantages such as improving yield rate, high performance.

Ito discloses a liquid crystal display device employing two polarizers (see at least Figure 8).

4. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazuyoshi et al (JP 2000-009912, IDS reference).

Kazuyoshi discloses a birefringential film comprising polymer stretched at an angle, the stretching/longitudinal direction of the film is inclined  $1^{\circ}$ - $45^{\circ}$  (overlapping Applicant's claimed range of  $20^{\circ}$ - $70^{\circ}$ ) to an orientation direction. It has been held that overlapping ranges are at least obvious. Further, Kazuyoshi discloses the birefringential yielding advantages such as good utilization efficiency. Therefore, it would have been at least obvious to one of ordinary skill in the art to employ a polymer film stretched at an angle, the stretching/longitudinal direction of the film is inclined  $1^{\circ}$ - $45^{\circ}$  (overlapping Applicant's claimed range of  $20^{\circ}$ - $70^{\circ}$ ) to an orientation direction. It has been held that overlapping ranges are at least obvious. Further, Kazuyoshi discloses the birefringential film yielding advantages such as good utilization efficiency.

***Allowable Subject Matter***

5. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not anticipate nor render obvious to one ordinary skilled in the art a birefringential/polarizer film comprising a combination of various elements as claimed, more specifically, the retardation of the protective film on at least one side at 632.8 nm is 10 nm or less.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan Ton whose telephone number is (571) 272-2303.

Art Unit: 2871

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 10, 2005



**TOANTON**  
**PRIMARY EXAMINER**